



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,135	02/06/2002	Jose Merino-Lopez	A33384-A	2661

5514 7590 07/19/2006

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

MAKI, STEVEN D

ART UNIT PAPER NUMBER

1733

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

5

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/071,135</p>	<p>Applicant(s) MERINO-LOPEZ ET AL.</p>	
	<p>Examiner Steven D. Maki</p>	<p>Art Unit 1733</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: see advisory action attachment. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-21 and 30-32.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see advisory action attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

advisory action attachment

new issues

The new issues are:

(1) in claim 1, adding --under a first rolling condition-- before "the contact surface of the at least one first tread element slides"; adding --under the first rolling condition-- after "the at least one second element does not slide"; changing "producing a signal representative" to --making a measurement--; deleting --a single one of--; and adding --the sensor in each first tread element producing a signal proportional to the tangential force acting upon that first tread element--;

(2) in claim 31, adding --under a first rolling condition-- before "the contact surface of the at least one first tread element slides" (claim 1); adding --under the first rolling condition-- between "the at least one second element slides" and "insufficiently--"; changing "producing a signal representative" to --making a measurement--; deleting --a single one of--; and adding --the sensor in each first tread element producing a signal proportional to the tangential force acting upon that first tread element--;

(3) in claim 32, adding --under a first rolling condition-- before "the contact surfaces of the first tread elements slide"; adding --under the first rolling condition-- after "the contact surfaces of the second tread elements do not slide; and adding --the sensor in each of the first tread elements produces a signal proportional to the tangential force acting upon that first tread element--;

(4) new claim 33 reciting --a plurality of estimates of tangential force are determined, each estimate corresponding to a signal from one of the first tread elements--.

remarks

With respect to Brazil, applicant argues that there would have been no reason to turn to Japan 802 for "low height" tread elements and one would not have been motivated to modify the encircled tread elements to include measurement sensors since Brazil already discloses "low height" tread elements, such as sacrificed ribs or pads, that incorporate measurement sensors. Applicant's argument is not persuasive since Brazil's teaching to incorporate sensors in pads or ribs is general instead of specific. Brazil shows a cross section of tire having a low height rib instead of the plan view of a specific tread pattern for improving grip. Brazil describes incorporating a sensor in a pad, but does not illustrate a specific tread pattern for improving grip containing a pad. One of ordinary skill in the art would turn to the secondary art for a more complete disclosure a specific tread pattern for improving grip. Japan 802 shows such a tread pattern. One of ordinary skill in the art would have found Japan 802's specific tread pattern especially desirable and suitable since (1) Japan 802's specific tread pattern contains low height "pads" 11 in a rib and (2) Brazil instructs one of ordinary skill in the art to incorporate sensor in a pad.

Applicant's remaining arguments are not persuasive for the reasons given in the last office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steven D. Maki
July 13, 2006


STEVEN D. MAKI 7-13-06
PRIMARY EXAMINER